



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

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June 23, 2000

Mr. Bruce A. Keyes
Foley and Lardner
777 E. Wisconsin Ave.
Milwaukee, WI 53202-5367

Subject: Hazardous Waste and Solid Waste Issues

Dear Mr. Keyes:

Thank you for your letter dated April 27, 2000. The Department very much appreciates the feedback and direction provided by the Brownfields Study Group and looks forward to continued positive dialogue in the future. Your letter provides comments on two major issues and I will address those in the order they were provided.

Solid Waste Issues

At the last meeting of the Brownfields Study Group, the Department provided a proposed schedule for completing the major activities associated with our solid waste streamlining efforts. Our major goal is to have specific deliverables drafted for review and comment at each of the next three Brownfields Study Group meetings. This includes: 1) a fact sheet describing the new expedited exemption process, 2) an application/certification form for an expedited approval, 3) guidance on how to investigate historic fill sites, and 4) revised guidance for how to redevelop sites with waste present.

My understanding is that the Brownfields Study Group was comfortable with the proposed schedule and encouraged the Department to move forward with implementation. The Solid Waste Streamlining Team has met several times since then and progress is being made on each of the items listed above.

Hazardous Waste Issues

For almost 5 years, the Remediation and Redevelopment Program has been using the NR 700 series as the regulatory mechanism for ensuring that all cleanups, including those involving hazardous waste, are carried out in a consistent manner. Guidance was issued to staff providing the details for how NR 700 applies to hazardous waste cases, including a standard letter that gives RP's the option to use the NR 700 process for investigation and remediation of the site.

Mr. Bruce Keyes – May 30, 2000

I want to assure you and other members of the Brownfields Study Group that it is our belief that sites proceeding through the NR 700 process satisfy all of the requirements set forth under RCRA and we will be strongly advocating this position with EPA. In an attempt to address your concerns about the uncertainty this process may cause, our staff will continue to follow the process contained in our May 20, 1997 memo (copy attached) including continuing to utilize Natural Attenuation and Institutional Controls at hazardous waste facilities, in accordance with NR 700 and existing guidance. We will also continue to evaluate these issues and will supplement the existing guidance, if necessary. This will provide a consistent statewide approach until EPA makes a final decision on our Innovative Regulatory Proposal. I am confident they will conclude our current process is not inconsistent with existing Federal guidance on these issues.

Several of the other items we intend to include in our Innovative Regulatory Proposal, in particular liability protection for lenders and local governmental units (LGU's), may be more difficult to resolve. However, we feel these issues are particularly well suited and timely for inclusion in an Innovative Regulatory Proposal. Other states are also raising these same issues, and we feel that successful implementation of our proposal could pave the way for liability reforms to RCRA, similar to those passed under Superfund several years ago. This could have significant ramifications in further encouraging Brownfields cleanup and redevelopment.

We intend to work closely with the Brownfields Study Group as this process moves forward and we look forward to your continued support for our efforts. If you have any questions regarding this letter or need more information, please contact Mark Giesfeldt at 608-267-7562.

Sincerely,

George E. Meyer
Secretary

c: Air and Waste Management Team
Waste Management Team
RR Management Team